

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF MONTANA**  
**BUTTE DIVISION**

FILED

8/1/2019

Clerk, U.S. District Court  
District of Montana  
Helena Division

L. KEELEY CONSTRUCTION CO.,  
an Illinois corporation,

Plaintiff,

vs.

DEVELOPERS SURETY AND  
INDEMNITY COMPANY, a  
California corporation,

Defendant.

No. CV-19-39-BU-SEH

**ORDER**

On July 30, 2019, Defendant Developers Surety and Indemnity Company filed a Notice of Removal in accordance with 28 U.S.C. § 1446.<sup>1</sup>

The removal statute is strictly construed against removal jurisdiction.<sup>2</sup> The “strong presumption” against removal jurisdiction requires that a defendant carry the burden of showing removal is proper.<sup>3</sup> Federal jurisdiction must be rejected if

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<sup>1</sup> Doc. 1.

<sup>2</sup> *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992).

<sup>3</sup> *Gaus*, 980 F.2d at 566.

there is any doubt as to the right of removal in the first instance.<sup>4</sup>

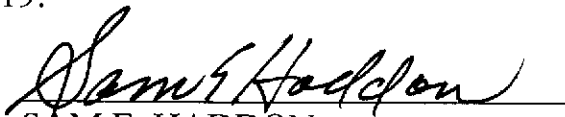
Defendant's Notice of Removal asserts federal jurisdiction under 28 U.S.C. §§ 1332(a) and 1441(a). Defendant states "Plaintiff is an Illinois corporation, and the project at issue is located in Bozeman, Montana. Defendant is a California corporation."<sup>5</sup>

A corporation for purposes of determining diversity jurisdiction is a citizen of both the state of incorporation and the state in which it has its principal place of business.<sup>6</sup> Defendant's declaration in its Notice of Removal does not affirmatively establish citizenship of either party under 28 U.S.C. 1332(c)(1).

ORDERED:

This case will be remanded to state court on August 9, 2019, unless Defendant files an amended notice of removal properly alleging jurisdiction on or before that date.

DATED this 1<sup>st</sup> day of August, 2019.

  
SAM E. HADDON  
United States District Court

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<sup>4</sup> *Gaus*, 980 F.2d at 566.

<sup>5</sup> Doc 1. At 3.

<sup>6</sup> See *Montrose Chemical Corp. v. American Motorists Ins. Co.*, 117 F.3d 1128, 1134 (9th Cir. 1997); 28 U.S.C. §1332(c)(1).